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EX PARTE OR LATE FILED

April 28, 1995

Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: CC Docket No. 92-115

Dear Mr. Caton:

In accordance with Commission rules, please be advised that yesterday, April 27th, Wayne Watts, Richard Firestone and the undersigned, representing Southwestern Bell Mobile Systems, met with Gina Keeney, Roz Allen, Michael Wack and Jay Markley of the Wireless Telecommunications Bureau regarding the proceeding listed above. Attached is the handout provided in the meeting. The discussion centered on Southwestern Bell Mobile Systems' Petition for Reconsideration as it relates to Part 22.903 of the Commission's rules.

If you have any questions, please let me know.

Sincerely,

Attachment

cc: Ms. Regina Keeney
Ms. Rosalind Allen
Mr. Michael Wack
Mr. Jay Markley

Before the
Federal Communications Commission
Washington, DC 20554

CC Docket No. 92-115

In the Matter of

Revision of Part 22 of the Commission's rules governing the Public Mobile Services

NOTICE OF PROPOSED RULE MAKING

Adopted: May 14, 1992 Released: June 12, 1992

Comment date: August 21, 1992
Reply comment date: September 21, 1992

By the Commission:

INTRODUCTION

1. In this Notice we propose to revise Part 22 of our rules governing the Public Mobile Services. These revisions, which are set forth in the attached appendices, are proposed in order to make our rules easier to understand, to eliminate outdated rules and unnecessary information collection requirements, to streamline licensing procedures and to allow licensees greater flexibility in providing service to the public.

BACKGROUND

2. We completed our last comprehensive review and revision of Part 22 of the rules in 1983.[1] More recently, the Mobile Services Division (MSD), through its own initiative, established an internal task force to study revising Part 22 of the rules. This task force met throughout 1989 and 1990 and suggested many specific rule changes. In response to the rule changes proposed by the task force, other members of the MSD staff also offered comments and suggestions. In addition, several telecommunications organizations have submitted suggestions for revisions to Part 22.[2]

DISCUSSION

3. Several factors make a revision and update of Part 22 of the rules desirable at this time. First, since the most recent revision of Part 22 in 1983, the Commission has engaged in numerous rule making proceedings that amended various sections of Part 22. A rewrite and update of Part 22 at this time will ensure that the rules adopted in these rule making proceedings are consistent and applicable today.

4. Second, since our last rewrite, significant changes have occurred in the Public Mobile Services that make some of our rules obsolete and unnecessary. For example, in the cellular service, almost all of the 306 Metropolitan Statistical Areas (MSAs) and New England County Metropolitan Areas for the New England States (NECMAs) and most of the 428 Rural Service Areas (RSAs) have been licensed to provide service. This fact, and other rapid developments in the cellular industry have rendered many of the Commission's rules governing the acceptance, processing and selection of applications for initial cellular authorizations in the MSAs, NECMAs and RSAs obsolete. In addition, because the first cellular license granted will expire on October 1, 1993,[3] and many other cellular authorizations will expire shortly thereafter, new rules governing the acceptance and processing of applications from parties competing against renewal applicants have been adopted.[4] Part 22 should be revised and updated to better incorporate these and other new rules.

5. Third, substantial changes in technology have occurred, causing some of the technical specifications in our rules to become outdated or unnecessary. Changes in technology have also made it desirable to provide carriers with greater flexibility to deal with new and changing circumstances while, at the same time, promoting the public interest.

6. Fourth, the Metric Conversion Act of 1975 designates the metric system as the preferred system of weights and measures and encourages federal agencies to use the metric system in procurement, grants and other business activities. In converting Part 22 rules involving heights and distances from English units to metric, rounding of the converted quantities to convenient whole numbers is desirable, but sometimes causes slight changes that require public consideration in a notice and comment rule making proceeding.

7. Attached Appendix A contains a section by section description of the proposed substantive changes to Part 22 of the rules. However, in the following paragraphs, we present a brief discussion of the more significant proposals.

8. **Reorganize Part 22.** Part 22 has been reorganized so that the rules are grouped in a more logical arrangement of subparts. Lengthy rule sections in the current rules that cover a number of different and

APPENDIX A

PROPOSED RULES DISCUSSION

This appendix discusses the major rule revisions. Rules that are changed only in format or style, rules that are only reworded or retitled, rules with only minor or non-substantive changes, and rules we propose to delete because they are unnecessary are not discussed in this appendix. Appendix B sets forth proposed Part 22 essentially in its entirety. A table for cross-referencing the current rules and the proposed rules appears in Appendix C.

§ 22.99 Definitions.

The definitions for Part 22 are updated. Some definitions are removed and others added. More appropriate titles for the various public mobile services are proposed. For example, the "Domestic Public Cellular Radio Telecommunications Service" is retitled the "Cellular Radiotelephone Service", and the "Public Land Mobile Service" (PLMS) is retitled the "Paging and Radiotelephone Service". The terms "frequency" and "channel" are defined in more technically correct terms. These two terms have often been used interchangeably over the years to refer to assignments of the electromagnetic spectrum. However, they are not the same, and as advances in technology have made it feasible to transmit more than one emission in the bandwidth normally assigned for one emission, we believe it is timely to refer to the bandwidth we normally assign for one emission as a "channel".

§ 22.101 Station files.

This proposed rule would codify the long-standing policy that station files at the Commission constitute the official record for each station. This proposed rule is intended to inform applicants and licensees that the Commission's unofficial records or data bases are not official records and that reliance on these secondary sources does not establish or deprive parties of their rights. See e.g., Mobilfone of Northeastern Pennsylvania, Inc., 5 FCC Rcd 7414 (Com. Car. Bur., released December 11, 1990).

§ 22.105 Written applications, standard forms, microfiche, magnetic disks.

We propose to revise our microfiche rules to require that all applications on standard forms (including all exhibits and attachments), regardless of their length, and any filings pertaining to a current or pending application or an existing authorization must be filed in microfiche form. Except in the case of emergency filings, all filings longer than three pages must be submitted in microfiche form. We propose these revisions to our microfiche rules for several reasons. First, we note that we propose to redesign FCC Form 401 to less than five pages. Despite the proposed changes to the FCC forms, which would make some filings shorter than they currently are, we must continue to require that applicants file their applications in microfiche form because of our file storage space constraints. Secondly, we propose these changes because of constraints on the Commission's microfiching resources. We propose also to modify our rules to require that all microfiche appear on a black background. Furthermore, we propose a rule that permits applicants to submit the technical and administrative data contained in their applications on standard 3½ inch magnetic disks, formatted in MS-DOS 2.0 or higher. We seek comment on the proposed format, the type of file to be used, and the data field delimiter. Finally, we intend that technical information submitted by licensees on magnetic disks be sufficient to enable the Commission to automatically generate notifications to the International Frequency Registration Board (IFRB). We emphasize, however, that any rules which the Commission adopts with respect to filings on magnetic disks would not become effective until the Commission can implement fully this process.

§ 22.120 Application processing; initial procedures.

This proposed section clarifies and updates § 22.27, and specifies the initial procedures the Mobile Services Division (MSD) follows when processing applications for authority to operate a PMS station.

§ 22.121 Repetitious, inconsistent or conflicting applications.

We are proposing to revise current rule § 22.21 to provide that where an authorization is automatically terminated for failure to commence service, the Commission will not consider a later filed application by the same party for authorization to operate a station on the same channel (or in the case of 931 MHz paging station, in the same frequency range) in the same geographical area until one year after the date the authorization is terminated. This proposal will encourage licensees to construct facilities for which they have received an authorization and will thus discourage warehousing.

channels, we propose to remove them from the BETRS rules and request comment on possible other Public Mobile Services utilizations for these channels.

§ 22.813 Technical assignment criteria.

This proposed rule, which would establish technical assignment criteria for channels used to provide 450 MHz air-ground service, would replace the allotment table in § 22.521(b) governing the locations and channels of ground stations. Under the current rules, applicants seeking to locate a ground station anywhere except for the designated locations in the table are required to petition for a change in the table (requiring a rule making proceeding). The proposed rule seeks to simplify and streamline the procedure for obtaining authorization for new or different locations for service. The proposed rule would establish distance separation criteria for co-channel ground stations and requirements limiting to six the number of channels within a 320 kilometer radius of the proposed antenna location. Under the proposed rules, parties wishing to use a new or different location could apply for it without the need for rule making. Action on such applications would be taken at the staff level. Although allotment tables were an efficient way of meeting various goals during the initial establishment of the air-ground service, the benefits have diminished as the service matured while the procedures remain relatively burdensome for the Public Mobile Services. The general aviation air-ground service was established in the 1960's and is now mature. We believe that the proposed rules would ensure that nationwide coverage is maintained, while allowing more flexibility for licensees to respond to local air-ground markets.

§ 22.817 Additional channel policies.

This proposed rule governs the processing of applications for additional ground station channels to provide 450 MHz air-ground service. It is similar to our policy for paging systems, in that we propose to assign only one channel in an area per application cycle (up to a maximum of six ground station channels for any one licensee in an area). This policy is intended to promote competition and to prevent warehousing. Also, similar to proposed rule § 22.539, this proposed rule contains provisions to ensure that the "one channel at a time" policy is followed. We propose that any mutually exclusive applications to provide 450 MHz air-ground service be processed on a "first come, first served" basis. Mutually exclusive applications filed on the same day would be included in a random selection process.

§ 22.819 AGRAS compatibility requirement.

We propose to update our rules to require the technical and operational compatibility specifications currently used by the vast majority of stations providing general aviation air-ground service in the 450 MHz frequency range. All stations would be required to comply with the technical and operational requirements contained in the document "Technical Reference, Air-ground Radiotelephone Automated Service (AGRAS), System Operation and Equipment Characteristics" dated April 12, 1985. As for any stations that may still be operating under the original technical standards, we propose to allow them to do so until January 1, 1994. We seek comment as to whether there are any stations still operating under the original standards.

§§ 22.857, et. seq.

These rules conform to the rules established in the proceeding Amendment of the Commission's Rules Relative to Allocation of the 849-851/894-896 MHz Bands, 6 FCC Rcd 4582 (1991).

§ 22.901 Cellular service.

We propose to consolidate in this rule the existing requirement that cellular licensees provide service to subscribers in good standing, and other rules related to service provided by cellular carriers. This proposed rule also includes special provisions for alternative cellular technologies and auxiliary service, contained currently in § 22.930. In this regard, we propose to eliminate the restriction limiting fixed service to Basic Exchange Telecommunications Radio systems (BETRS). Because of this limitation, carriers currently wishing to provide a fixed-incidental service with compatible equipment must request a waiver to permit such use. We routinely grant such waivers, and can not envision a circumstance under which we would deny such a waiver. Thus it appears that the restriction on incidental fixed services is unnecessary. Carriers desiring to provide an incidental fixed service must comply with state certification requirements, if any. See Amendment of Parts 2 and 22 of the Commission's Rules to Permit Liberalization of Technology and Auxiliary Service Offerings in the Domestic Public Cellular Telecommunications Service, 5 FCC Rcd 1138, 1141 n.14 (1990).

§ 22.905 Channels for cellular service.

We are proposing to eliminate the wireline carrier set-aside provisions of current § 22.902. These set-aside provisions for separate wireline and non-wireline chan-

no longer be relevant if we adopt our proposal to eliminate the rule allowing reinstatement.

3. Add an option for partial completion of construction. We propose to add an option to Item 6 allowing applicants to notify the Commission that only part of the facilities have been constructed. This information will assist the MSD staff in processing applications more efficiently.

4. Remove Items 9, 10 and 11. These items concern extensions of time to complete construction (Items 9 and 10) and requests for reinstatements (Item 11), both of which we propose to remove from Form 489. As proposed, requests for extensions of time will be filed on Form 401. As noted above, we are proposing to delete the rules allowing reinstatements.

5. Remove Items 13, 14 and 16 to Form 401, Schedule B. Items 13, 14 and 16 concern requests for modifications of facilities. Schedule B will continue to be attached to Form 489 when required.

6. Remove Items 12 and 17. Item 12 questions whether the representations contained in the granted application are still true and correct. Item 17 questions whether there has been any changes to the information in the application for authorization covering ownership, citizenship, station control, business connection and monopoly practices. If any of this information has changed, the applicant would reflect these changes on Forms 401 and 490.

7. Remove Items 18 and 19. Item 18 questions whether the application is for modification of license. Item 19 questions whether the applicant has been denied state certification for the facilities proposed in the application. Affirmative responses to both Items require that exhibits be submitted. However, the information required by these exhibits would already be on file in the applicant's Form 401. Therefore, we propose to delete these Items from Form 489.

Proposed Changes to FCC Form 490

All requirements for the submission of exhibits are moved to the instructions. The instructions to the form will specify what, if any, exhibits should be submitted.

APPENDIX B

Proposed Rules

PART 1 - PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.420 is amended (to remove all references to the air-ground table of allotments - specific amendatory language to be provided at final rule publication).

3. In the first sentence of the introductory text of Section 1.742, the phrase "Except as specified in § 22.6" is revised to read "Except as specified in Part 22".

4. Section 1.821 is revised to read as follows:

§ 1.821 Scope.

The provisions of §§ 1.822, 1.823, 1.824 and 1.825 apply as indicated to those applications for permits, licenses or authorizations in the Public Mobile Services, Multichannel Multipoint Distribution Service and Digital Electronic Message Service for which action may be taken by the Chief, Common Carrier Bureau pursuant to delegated authority.

5. Section 1.823 is amended by revising the headnote and paragraph (b) to read as follows:

§ 1.823 Random selection procedures for the Public Mobile services.

* * * * *

(b) * * *

(1) Public Mobile Services other than the Cellular Radiotelephone Service. Petitions to Deny and other pleadings may be filed against applications but are not reviewed prior to the random selection process. Petitions filed against tentative selectee applications are reviewed after the tentative selectee is announced.

(2) Cellular Radiotelephone Service, except unserved areas. * * *

(3) Cellular Radiotelephone Service, unserved areas. * * *

* * * * *

6. Section 1.1105 is amended (to conform terminology in the fee schedule - specific amendatory language to be provided at final rule publication).

7. Part 22 is revised to read as follows:

operations are exempt from the channeling requirements of § 22.905, the modulation requirements of § 22.915 and the emission limitations of § 22.917, except for emission limitations that apply to emissions outside the assigned channel block.

§ 22.903 Conditions applicable to former Bell operating companies.

Ameritech Information Technologies Corporation, Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation, U.S. West, Inc., their successors in interest and affiliated entities (former BOCs) may engage in the provision of cellular service only in accordance with the conditions in this section, unless otherwise authorized by the Commission. Former BOCs may, subject to other provisions of law, have a controlling or lesser interest in or be under common control with separate corporations that provide cellular service only under the following conditions:

(a) Access to landline facilities. Former BOCs must not sell, lease or otherwise make available to the separate corporation any transmission facilities which are used in any way for the provision of its landline telephone services, except on a compensatory, arm's-length basis. Separate corporations must not own any facilities for the provision of landline telephone service. Access to landline exchange and transmission facilities for the provision of cellular service must be obtained by separate corporations on the same terms and conditions as those facilities are made available to other entities.

(b) Independence. Separate corporations must operate independently in the provision of cellular service. Each separate corporation must -

(1) maintain its own books of account;

(2) have separate officers;

(3) employ separate operating, marketing, installation and maintenance personnel; and,

(4) utilize separate computer and transmission facilities in the provision of cellular services.

(c) Research or development. Any research or development performed by former BOCs for separate corporations, either separately or jointly, must be on a compensatory basis.

(d) Transactions. All transactions between the separate corporation and the former BOC or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any things of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered between such entities with regard to interconnection with landline network exchange and transmission facilities must be filed with the Commission within thirty days after the contract, agreement, or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the Commission. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(e) Promotion. Former BOCs must not engage in the sale or promotion of cellular service on behalf of the separate corporation. However, this does not prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate.

(f) Proprietary information. Former BOCs must not provide to any such separate corporation any customer proprietary information, unless such information is publicly available on the same terms and conditions.

(g) Provision of other Public Mobile services. Separate corporations may include, as part of their operations, the provision of other Public Mobile services.

§ 22.905 Channels for cellular service.

The following channels are allocated for block assignment in the Cellular Radiotelephone Service. All channels have a bandwidth of 40 kHz and are designated by their center frequencies in MegaHertz.

CHANNEL BLOCK A

416 communication channel pairs

base	mobile	base	mobile
869.040	824.040	890.010	845.010
869.070	824.070	890.040	845.040
⋮	⋮	⋮	⋮
879.990	834.990	891.480	846.480

21 control channel pairs

834.390	879.390
834.420	879.420
⋮	⋮
834.990	879.990

CHANNEL BLOCK B

416 communication channel pairs

base	mobile	base	mobile
880.020	835.020	891.510	846.510
880.050	835.050	891.540	846.540
⋮	⋮	⋮	⋮
889.980	844.980	893.970	848.970

21 control channel pairs

835.020	880.020
835.050	880.050
⋮	⋮
835.620	880.620

(a) Each channel block is assigned exclusively to one licensee for use in that licensee's cellular geographic service area (see § 22.911).

(b) Licensees may use any channel pair from the assigned channel block at any of their authorized transmitter locations, subject to the prior coordination requirements of § 22.907.

States, Alaska, Hawaii and other United States territories.

(2) A schedule for construction of 50 ground stations and provision of nationwide service to subscribers within 5 years from the grant of the initial authorization.

(3) A description of how the system will interconnect with the landline telephone network and be integrated with other air-ground systems, including a statement as to whether the system will be interconnected with international air-ground systems.

(d) Technical Exhibit. A technical description of the proposed system demonstrating compliance with all applicable technical requirements and describing how the proposed system would operate, if authorized. This exhibit must provide the following information:

(1) The number of ground stations to be used, their locations, and the type and quantity of equipment proposed for the system;

(2) A complete description of the procedures and data protocols to be used on the control channel;

(3) The modulation types to be used and their spectral characteristics;

(4) The effective radiated power and transmitter peak envelope power for all transmitters at each ground station location, and the effective radiated power of the airborne mobile stations;

(5) Antenna information as follows:

(i) For airborne mobile stations, the antenna type(s) to be used;

(ii) For ground stations, vertical and horizontal radiation patterns, antenna heights above ground level, antenna support structure heights above ground level, ground elevation above mean sea level and any relevant information (e.g. FAA approval) that may be helpful in determining whether ground station antennas require marking and lighting;

(6) Analytical data, including calculations, of potential interference within and without the spectrum for the air-ground system;

(7) A statement in compliance with the National Environmental Policy Act of 1969. See § 1.1301 et. seq.

Subpart H - Cellular Radiotelephone Service

§ 22.900 Scope.

The rules in this subpart govern the licensing and operation of cellular radiotelephone systems. Licensing and operation of these systems are also subject to rules elsewhere in this part that apply generally to the Public Mobile Services. In case of conflict, however, the rules in this subpart govern.

§ 22.901 Cellular service requirements and limitations.

Cellular system licensees must provide cellular mobile radiotelephone service upon request to all cellular subscribers in good standing, including roamers, while such subscribers are located within any portion of the authorized cellular geographic service area (see § 22.911) where facilities have been constructed and service to subscribers has commenced. A cellular system licensee may refuse or terminate service,however, subject to any applicable state or local requirements for timely notification, to any subscriber who operates a cellular telephone in an airborne aircraft in violation of § 22.925 or otherwise fails to cooperate with the licensee in exercising operational control over mobile stations pursuant to § 22.927.

(a) Service area information. Licensees must inform prospective subscribers of the area in which reliable service can be expected.

(b) Lack of capacity. If a licensee refuses a request for cellular service because of a lack of system capacity, it must report that fact to the FCC in writing, explaining how it plans to increase capacity.

(c) Dispatch service. Cellular systems must not offer or provide dispatch service.

(d) Alternative technologies and auxiliary services. Licensees of cellular systems may use alternative cellular technologies and/or provide auxiliary common carrier services, including personal communications services (as defined in Part 24 of this chapter) on the communication channels in their assigned channel block, provided that cellular service is available to subscribers whose mobile equipment conforms to the cellular system compatibility specification (see § 22.933).

(1) Licensees must perform or obtain an engineering analysis to ensure that interference to the service of other cellular systems will not result from the implementation of auxiliary services or alternative cellular technologies.

(2) Alternative technology and auxiliary service operations are exempt from the channeling requirements of § 22.905, the modulation requirements of § 22.915, the wave polarization requirements of § 22.367, the compatibility specification in § 22.933 and the emission limitations of §§ 22.357 and 22.917, except for emission limitations that apply to emissions outside the assigned channel block.

(e) Provision of resale capacity. Each cellular system licensee must permit unrestricted resale of its service, except that a licensee may apply resale restrictions to licensees of cellular systems on the other channel block in its market after the five year build-out period for licensees on the other channel block has expired.

§ 22.903 Conditions applicable to former Bell Operating Companies.

Ameritech Corporation, Bell Atlantic Corporation, BellSouth Corporation, NYNEX Corporation, Pacific Telesis Group, Southwestern Bell Corporation, U.S. West, Inc., their successors in interest and affiliated entities (BOCs) may engage in the provision of cellular service only in accordance with the conditions in this section, unless otherwise authorized by the FCC. BOCs may, subject to other provisions of law, have a controlling or lesser interest in or be under common control with separate corporations that provide cellular service only under the following conditions:

(a) Access to landline facilities. BOCs must not sell, lease or otherwise make available to the separate corporation any transmission facilities that are used in any way for the provision of its landline telephone services, except on a compensatory, arm's-length basis. Separate corporations must not own any facilities for the provision of landline telephone service. Access to landline exchange and transmission facilities for the provision of cellular service must be obtained by separate corporations on the same

terms and conditions as those facilities are made available to other entities.

(b) Independence. Separate corporations must operate independently in the provision of cellular service. Each separate corporation must -

(1) Maintain its own books of account;

(2) Have separate officers;

(3) Employ separate operating, marketing, installation and maintenance personnel; and,

(4) Utilize separate computer and transmission facilities in the provision of cellular services.

(c) Research or development. Any research or development performed by BOCs for separate corporations, either separately or jointly, must be on a compensatory basis.

(d) Transactions. All transactions between the separate corporation and the BOC or its affiliates that involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any things of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered between such entities with regard to interconnection with landline network exchange and transmission facilities must be filed with the FCC within thirty days after the contract, agreement, or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the FCC. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

(e) Promotion. BOCs must not engage in the sale or promotion of cellular service on behalf of the separate corporation. However, this does not prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate.

(f) Proprietary information. BOCs must not provide to any such separate corporation any customer proprietary information, unless such information is publicly available on the same terms and conditions.

(g) Provision of other Public Mobile services. Separate corporations may include, as part of their operations, the provision of other Public Mobile services.

§ 22.905 Channels for cellular service.

The following channels are allocated for block assignment in the Cellular Radiotelephone Service. All channels have a bandwidth of 40 kHz and are designated by their center frequencies in MegaHertz.

CHANNEL BLOCK A

416 communication channel pairs

base	mobile	base	mobile
869.040	824.040	890.010	845.010
869.070	824.070	890.040	845.040
⋮	⋮	⋮	⋮
879.990	834.990	891.480	846.480

21 control channel pairs

834.390	879.390
834.420	879.420
⋮	⋮
834.990	879.990

CHANNEL BLOCK B

416 communication channel pairs

base	mobile	base	mobile
880.020	835.020	891.510	846.510
880.050	835.050	891.540	846.540
⋮	⋮	⋮	⋮
889.980	844.980	893.970	846.970

21 control channel pairs

835.020	880.020
835.050	880.050
⋮	⋮
835.620	880.620

(a) Each channel block is assigned exclusively to one licensee for use in that licensee's cellular geographic service area (see § 22.911).

(b) Licensees may use any channel pair from the assigned channel block at any of their transmitter locations, subject to the prior coordination requirements of § 22.907.

§ 22.907 Coordination of channel usage.

Licensees in the Cellular Radiotelephone Service must coordinate, with the appropriate parties, channel usage at each transmitter location within 121 kilometers (75 miles) of any transmitter locations authorized to other licensees or proposed by tentative selectees or other applicants, except those with mutually exclusive applications.

(a) Licensees must cooperate and make reasonable efforts to resolve technical problems that may inhibit effective and efficient use of the cellular radio spectrum; however, licensees are not obligated to suggest extensive changes to or redesign other licensees' cellular systems. Licensees must make reasonable efforts to avoid blocking the growth of other cellular systems that are likely to need additional capacity in the future.

with the applicable requirements contained elsewhere in this part; however, in case of conflict, the provisions of this subpart shall govern.

[46 FR 27674, May 21, 1981, as amended at 53 FR 52175, Dec. 27, 1988]

§ 22.901 Eligibility.

(a) Authorizations for Cellular Systems to be operated in the Domestic Public Cellular Radio Telecommunications Service will be issued to existing and proposed communications common carriers. Applications will be granted only in cases where it is shown that the applicant is legally, financially, technically and otherwise qualified to render the proposed service, there are frequencies available to enable the applicant to render a satisfactory service, and the public interest, convenience and necessity would be served by a grant thereof.

(b) Neither Ameritech Information Technologies Corp., Bell Atlantic Corp., BellSouth Corp., NYNEX Corp., Pacific Telesis Group, Southwestern Bell Corp., or US West, Inc., their successors in interest, nor any affiliated entity, may engage in the provision of cellular service except as provided for in paragraphs (c) and (d), or as otherwise authorized by the Commission.

(c) A carrier subject to the restriction in paragraph (b) of this section, may, subject to other provisions of law, have a controlling or lesser interest in, or be under common control with a separate corporate entity that furnishes cellular service provided the following conditions are met:

(1) Each such separate corporation shall obtain access to landline exchange and transmission facilities necessary for the provision of cellular service on the same basis as those facilities are available to other entities, and may not own any facilities for the provision of landline telephone service;

(2) Each such separate corporation shall operate independently in the furnishing of cellular service. It may include, as part of its operations, the furnishing of other mobile services offered pursuant to Part 22 of the Commission's Rules. Each such separate corporation shall maintain its own books of account, have separate officers, utilize separate operating, marketing, installation, and maintenance personnel, and utilize separate computer and transmission facilities in the provision of cellular services. Any research or development performed on a joint or separate basis for the subsidiary must be done on a compensatory basis; and

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered into between such entities with regard to interconnection with landline network exchange and transmission facilities shall be filed with the Commission within thirty days after the contract, agreement or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the Commission. The provision shall not apply to any transaction governed by the provision of an effective state or Federal tariff.

(d) A carrier subject to the restriction in paragraph (b) of this section:

(1) Shall not engage in the sale or promotion of cellular services on behalf of the separate corporation or sell, lease or otherwise make available to the separate corporation any transmission facilities which are used in any way for the provision of its landline telephone services, except on a compensatory, arms-length basis; this section shall not prohibit joint advertising or promotional efforts by the landline carrier and its cellular affiliate; and

(2) May not provide to any such separate corporation any customer proprietary information unless such information is available to any member of the public on the same terms and conditions.

[47 FR 10035, Mar. 9, 1982, as amended at 50 FR 10036, Mar. 13, 1985; 51 FR 37023, Oct. 17, 1986; 53 FR 23786, June 24, 1988]

§ 22.902 Frequencies.

(a) The frequencies available in the Domestic Public Cellular Radio Telecommunications Service are listed below in accordance with Frequency Allocations of § 2.106. Each frequency Block available for use by cellular systems in this service shall be assigned to a single applicant in any cellular system service area. A cellular licensee may use any frequency from its Block at any of its authorized locations, subject to prior coordination as described in paragraph (d) of this section. Only two cellular systems may be authorized in each such area. In the event harmful interference occurs or appears likely to occur between two or more radio systems and such interference cannot be resolved between the licensees thereof, the Commission may require the licensees to make such changes in operating techniques or equipment as it may deem necessary to avoid such interference.

(b) For cellular systems the assignment of frequencies will be divided into two blocks. Assignments will be made from the frequencies listed for cellular systems A and B. For initial applications for MSAs and RSAs, common carriers not also engaged in the business of affording public landline message telephone service will be assigned frequencies from Cellular System A. Common carriers engaged directly or indirectly in the business of affording public landline message telephone service will be assigned frequencies from cellular System B in those areas in which they provide such landline service in some portion of the cellular market, for initial applications for MSAs and RSAs.

(1) Cellular System A: 416 frequency pairs with 30 kHz channel spacing as follows:

Mobile frequencies

824.040, 824.070 ..... 834.990 MHz
845.010, 845.040 ..... 846.480 MHz

Base frequencies

869.040, 869.070 ..... 879.990 MHz
890.010, 890.040 ..... 891.480 MHz

(2) Cellular System B: 416 frequency pairs with 30 kHz channel spacing as follows:

Mobile frequencies

835.020, 835.050 ..... 844.980 MHz
846.510, 846.540 ..... 848.970 MHz

Base frequencies

880.020, 880.050 ..... 889.980 MHz
891.510, 891.540 ..... 893.970 MHz

(3) In accordance with § 22.31(a)(1)(i) and (f), after the five year fill-in period has expired for a particular frequency block, applicants may apply for this frequency block to provide service to unserved areas regardless of whether the applicant is a wireline or nonwireline carrier. The applicant shall indicate in its application the frequency block for which it is applying.

(4) Each Phase I application must request authority to provide service to unserved area in one specific MSA or RSA.

(i) Applicants may file only one application per MSA or RSA and may request only one CGSA per application. The initial applications in Phase I must not contain any de minimis or contract extensions of the proposed service area boundaries beyond the boundary of the MSA or RSA. Any initial Phase I application proposing and extension will be dismissed.

(ii) Each Phase I licensee may file, no later than 90 days after the grant of the authorization, one and only application for major modifications to the unserved area cellular system. The Commission will not accept or consider any competing application(s) filed in response to such applications for major modification. Applications for major modification may propose de minimis or contract extensions into adjacent MSAs and RSAs in accordance with the provisions of Section 22.903(d)(3).

(A) A contract extension into an adjacent market may be proposed in a Phase I modification application only if the licensee in the adjacent market possesses either the right to modify its system or the contract extension area is entirely contained within an authorized or proposed CGSA at the time the unserved area modification application is filed. The extension area must be contiguous with the authorized or proposed, modified CGSA of the unserved area licensee. The major modification application may propose a CGSA which is not contiguous with the authorized or proposed CGSA only if the noncontiguous CGSA meet the minimum coverage requirements of § 22.924.